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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 ROLAND MA,

9 Plaintiff,

10 v.

11 CITY OF SEATTLE, *et al.*,

12 Defendants.

NO. C19-1764RSL

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
AND STAYING CASE

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14 This matter comes before the Court on plaintiff's application for Court-appointed counsel.  
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16 Dkt. # 19.

17 Generally, a person has no right to counsel in civil actions. See Storseth v.  
18 Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981). However, a court may under  
19 "exceptional circumstances" appoint counsel for indigent civil litigants pursuant to  
20 28 U.S.C. § 1915(e)(1). Agyeman v. Corrs. Corp. of Am., 390 F.3d 1101, 1103  
21 (9th Cir. 2004). When determining whether "exceptional circumstances" exist, a  
22 court must consider "the likelihood of success on the merits as well as the ability  
23 of the petitioner to articulate his claims pro se in light of the complexity of the  
24 legal issues involved." Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983).  
Neither of these considerations is dispositive and instead must be viewed together.  
Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986).

25 Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009). In addition, the party seeking appointment  
26

1 of counsel must show indigency.

2 Plaintiff alleges that the City of Seattle and the Seattle Police Department violated his  
3 rights under the Fourth Amendment to the United States Constitution by conducting a  
4 warrantless search<sup>1</sup> of his apartment on October 2, 2019, searching and seizing his vehicle on  
5 October 12, 2019, and searching and seizing his cell phone incident to an arrest. Dkt. # 13 at 4;  
6 Dkt. # 14 at 2. The claims are not particularly complex, and plaintiff has shown familiarity with  
7 both the law and the facts underlying his claims. So far in this litigation he has filed an amended  
8 complaint, appended a number of supporting declarations, and registered for electronic filing  
9 privileges. Whatever the merits of plaintiff's claims, he appears capable of litigating them  
10 without the aid of counsel.  
11

12 The record is insufficient to support a finding of indigency. Plaintiff paid the filing fee in  
13 this case and paid an additional filing fee to clear a bar order entered against him in Ma v. Dep't  
14 of Educ., C19-0399JCC. His financial affidavit identifies over \$900/month in income, with no  
15 monthly expenditures. Dkt. # 20 at 1. While he indicates that he owns no real estate or  
16 automobiles, the evidence submitted with the amended complaint shows that he lives in a  
17 condominium on 2nd Avenue in Belltown (Dkt. # 14 at 27) and drives a 2019 Volkswagen Jetta  
18 (Dkt. # 14 at 29). The record also suggests that he has an ownership interest in two corporations,  
19 Handomeland LLC and Catland LLC. The Court is unable to justify imposing the costs of this  
20 litigation on another when there is significant evidence that plaintiff has the financial  
21 wherewithal to self-finance this litigation.  
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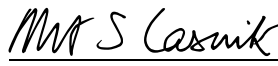
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26 <sup>1</sup> The "key release" notice provided with the complaint indicates that the officer presented a  
27 warrant at the time of the search. See Dkt. # 14 at 27.

1 Finally, plaintiff asserts that he must have counsel appointed to represent him because one  
2 of the conditions of his pretrial release in state court is that he will have “No contact with City or  
3 the SPD except through his attorney.” Dkt. # 13 at 4; Dkt. # 14 at 31. This fact has no impact on  
4 the analysis under § 1915(e)(1): it does not show indigency, nor does it reflect on the merits of  
5 plaintiff’s claims or his ability to articulate those claims. It does, however, raise concerns for the  
6 undersigned. The Municipal Court of the City of Seattle found “a substantial likelihood that the  
7 defendant will commit a violent crime, interfere with witnesses or [interfere with the]  
8 administration of justice” and has barred him from contact with defendants in this case in order  
9 to reduce that likelihood. Dkt. # 14 at 31. Unless and until the “no contact” condition is lifted or  
10 plaintiff obtains counsel to represent him in this case, prosecution of this litigation will put  
11 plaintiff in direct violation of the Municipal Court order.  
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15 For all of the foregoing reasons, plaintiff’s motion for appointment of counsel (Dkt. # 19)  
16 is DENIED. This matter is hereby STAYED until an attorney appears in this matter to represent  
17 plaintiff or plaintiff provides evidence that the “no contact” provision is no longer in effect.  
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20 Dated this 4th day of December, 2019.

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23 Robert S. Lasnik  
24 United States District Judge  
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